

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
WILLIAM B. CLOES,)
d.b.a. CALHOUN HOTEL,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 302

FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER

A formal hearing on the appeal of William B. Cloes, owner of the Calhoun Hotel, to a Notice of Civil Penalty of \$25.00 for an alleged smoke emission violation came on before the Board, all members present, with Walt Woodward presiding in Seattle, Washington on May 22, 1973.

Appellant appeared pro se; respondent appeared by and through its attorney, Keith D. McGoffin.

Having heard the testimony and being fully advised, the Board makes the following:

FINDINGS OF FACT

I.

On January 19, 1973, appellant caused or allowed smoke to be emitted from the oil-fired boiler stack of appellant's Calhoun Hotel at 2000 - 2nd Avenue, Seattle, Washington for six consecutive minutes of a shade darker than No. 2 on the Ringelmann Chart, namely a Ringelmann varying from Nos. 2½ to 3½. Such smoke was caused by too rich a mixture of the oil fuel.

II.

Section 9.03(a) of respondent's Regulation I makes it unlawful to cause or allow the emission of an air contaminant darker in shade than No. 2 on the Ringelmann Chart for more than three minutes in any hour.

III.

Pursuant to the instructions upon respondent's Notice of Violation No. 7223, appellant contends that he instructed his office employee to notify respondent of the correction action taken by him to prevent continued or recurrent violation of respondent's regulations. However, respondent denies having received such notification. Appellant cannot be positive that such notification was given nor can respondent be positive that such notification was not received. Immediately upon having the violation called to his attention, appellant caused the burner of his furnace to be serviced and the source of the smoke emission corrected.

Although Mr. Cloes has owned the hotel only since May of 1972, a prior smoke emission violation had occurred from the Calhoun Hotel

1 building on January 8, 1971.

2 From which comes this

3 CONCLUSION OF LAW

4 Appellant was in violation of Section 9.03(a) of respondent's
5 Regulation I.

6 From which follows the Board's

7 ORDER

8 The appeal is denied and the civil penalty is affirmed.

9 DONE at Lacey, Washington this 5th day of June, 1973.

10 POLLUTION CONTROL HEARINGS BOARD

11 Walt Woodward
12 WALT WOODWARD, Chairman

13 W. A. Gissberg
14 W. A. GISSBERG, Member

15
16 James T. Sheehy
17 JAMES T. SHEEHY, Member

18
19
20
21
22
23
24
25
26 FINDINGS OF FACT,
27 CONCLUSION OF LAW AND ORDER